

**FULL COUNCIL MEETING MINUTES**  
**March 20, 2017 - 1:30 PM**  
**STATE COUNCIL FOR PERSONS WITH DISABILITIES**  
***Edgehill Training Room/DPH, Dover***

**PRESENT**

Jamie Wolfe, Chair; Susan Burns, DSCYF/DPBHS; Debbie Dunlap, Advocate/Parent (via phone); Sonya Dyer, Dover AFB; Nick Fina, Advocate; Brian Hartman, DLP/CLASI; Bonnie Hitch, DART; William Payne, AAPD; Ann Phillips, Advocate/Family Voices; Loretta Sarro, DOL/DVR DODHH; Lloyd Schmitz, Council of the Blind; Anita Saamoi, GACEC (for Wendy Strauss); Kristin Harvey, DDC (for Pat Maichle); Todd Webb, DelDOT-ADA; John McNeal, Staff; Amber Rivard, Support Staff; Dee Rivard, Support Staff and Jo Singles, Support Staff.

**GUESTS**

Victoria Counihan, DOJ/AG  
Michelle Morin, Office of Supplier Diversity (via phone)  
Dan Madrid-DHSS/DMS, Chair – Employment First Oversight Commission  
Elizabeth Suarez-Gonzalez, Attendant

**Interpreters:** Ruth Fisher and Dorothy Bendekovits

**CALL TO ORDER**

Jamie called the meeting to order at 1:32 pm. Everyone introduced themselves.

**ADDITION OR DELETIONS TO THE AGENDA**

Addition: Step-Back: HCBS Workgroup (this was tabled until the next meeting)  
Meeting with Federal Legislators about Medicaid Issues

**APPROVAL OF MINUTES**

The minutes will be revised as follows: Michele Morin is spelled Michelle. A motion was made by Lloyd, seconded by Ann, and approved to accept the January 23, 2017 minutes as amended, with no one opposing or abstaining.

**BUSINESS**

**SCPD – Staff Roles and Responsibilities**

John provided an update on the SCPD's staff roles and responsibilities. He spoke about the welcome addition of Dee Rivard, Executive Secretary, who came from Department of Safety & Homeland Security (DSHS). He spoke about his roles as SCPD Administrator and State ADA Coordinator. His goal is to get State programs and facilities in compliance with ADA. He spoke about the support he has received from Secretary Coupe (DSHS). He foresees conflicts of interest in achieving this with the State Council being under DSHS.

John spoke about Jo's and Amber's roles in continuing to perform the work of the Council. Dee is researching information on where we stand with individual agencies and how we will move forward. Dee will also be working with John on the Brain Injury Trust Fund and recent outreach efforts have been successful.

Dee provided background information, including working in the Executive Office at DSHS. She previously led the Legal Office for the House of Representatives at Delaware Legislative Hall. She has been working on developing a fillable Brain Injury Trust Fund Application on the SCPD website with required fields; once the application is electronically submitted, it comes directly to her Inbox. There will be a specific mailbox designed for this that will be shared with SCPD staff. There will be updates on the SCPD website, including explaining what the Brain Injury Trust Fund is about. Dee has developed a spreadsheet on everyone who has applied for funds with status updates. She would also like to see a reason for denial of a request going forward. Nick commented about the boost in power that is occurring in the Council.

Dee will attend a Brain Injury Committee meeting to discuss changes to the Brain Injury Trust Fund. Dee commented that she would like to have the rest of the SCPD website in a similar format to the Employment First Oversight Commission section. Jamie thanked Dee for her input. She asked if the types of requests we are receiving are being tracked so that when increased funding is requested from the Legislature, there will be a breakdown of the types of requests for funding. John commented that another spreadsheet will be developed on requests for assistance and there will be another fillable form online. John wants to get ideas from everyone on a regular basis. Jamie suggested adding this as a standard agenda item. John commented he looks forward to moving initiatives forward and having the Council's support. Jamie suggested that it would be helpful to have a list of each staff person's roles and responsibilities once they are established.

Loretta asked about who would be the contact person for specific committees and workgroups of the Council. John explained that nothing has changed in regard to the Council. Jo and Amber are still the contacts, but he asked that he gets copied on any email requests. He spoke about developing agendas for the different Committee meetings. Loretta suggested that John speak with Peg Stewart about the Deaf & Hard of Hearing workgroup and how to move their agenda forward. John stated that his goal is to have productive meetings. The increased workload with limited staff has been noted by Secretary Coupe. John would like to see the Chairs of the Committees and workgroups drive the agendas and help him become established. Jamie offered to attend meetings for John when needed depending on her availability.

### **Employment First Oversight Commission – Recommendations to Legislators on Subminimum Wage**

Dan spoke referred to the draft document that he created as Chair of the Employment First Oversight Commission (EFOC) on Subminimum Wage Analysis for the State of Delaware. He noted Lloyd's work as previous Chair of the EFOC and Nick's involvement. He provided background information and reviewed the summary, including state and national levels. He spoke about the following recommendations:

- The EFOC supports drafting legislation that would phase out the use of subminimum wage certificates in Delaware, beginning with the restriction of any new employees being permitted to work under Section 14(c) of the Fair Labor Standards Act effective one (1) year from the date of enactment.

- That the State of Delaware should provide assistance with a time and resource study focusing on the individuals with disabilities currently employed in subminimum wage settings, the state agencies that provide funding to them, and the businesses that employ them, in order to support the future transition needs of the population, including the phase out of sheltered workshops should be well designed with the necessary resources in place to ensure improved outcomes in the quality of life for the people we are serving. He stated that there are currently 450 people employed in these settings. He noted that there seems to be full consensus around this initiative.
- That the State of Delaware should provide leadership in this area as the largest employer of diverse populations, inclusive of persons with disabilities by reviewing and implementing specific practices listed in the handout, including:
  - Incorporate a top-down required disability employment training into the State's employee education system.
  - Implement a more robust "Selective Placement" system and integrate it into the hiring process.
  - Provide work experiences by embracing the value of mentorships/internships.
  - Consider amending enabling statute to expand the Employment First Act. Currently, this only focuses on the State of Delaware and the Executive Branch. This could be expanded to any agency that receives funding from the General Assembly. This would include county and local governments and organizations within the state.
  - Remove screening barriers that present challenges to job seekers applying for jobs at the State. This would include posted entry-level classifications for Pay Grade 8 or less classifications that require a minimum of 6 months of work experience in a relevant field in order to be considered eligible for consideration for the job. There was discussion about jobs that require a driver's license when that is not part of the job requirement. Jamie and John spoke about their personal experience with this requirement.

Dan noted that there also seems to be full consensus around this initiative. Lloyd spoke about the State contract process that requires bids from a minority owned business or persons with disability and recommended that a similar process be followed regarding hiring persons with disabilities when positions become open. Dan commented that it was a good recommendation. Jamie asked if no one with a disability has the qualifications needed. Dan explained that Selective Placement already prescreens applicants so they already meet the requirements. Michelle agreed that the buyers have to fit the need under the Office of Supplier Diversity and have to be qualified. She recommended using the word "seek" rather than "require" a qualified individual.

Nick asked how far below minimum wage are people being paid in the organizations within Delaware that hold Section 14(c) certificates and are eligible to pay 274 workers subminimum wages. Dan stated is following up on this. He also spoke about integrated settings being the preferred way under Employment First and that the workshops serve a purpose for part of the population and that subminimum wage should be eliminated through increased subsidies from the State and increased revenues from the sale of their goods and services. Dan spoke about differing opinions with some who see it as a moral or ethical issue around paying people less than minimum wage, although others think it may be an opportunity for those not yet able to work for competitive wages. He said that the current data is not all that compelling around eliminating subminimum wages. He added that we want to get it right in Delaware and are looking at ways to get more people in better wage positions. Nick questioned what makes any wage a minimum wage job and at some point, no one should be paid less than minimum wage. Dan commented that there is concern that if people are not allowed to work in these

settings, they will go to day habilitation settings and that no work is not the intent. John commented that it would be interesting to know what kind of stipend these organizations receive for each person and if that amount is creating a profit--that would be immoral. Dan stated that he has requested that information from the three providers about two weeks ago. He added that they want to talk to the providers and employees and/or their families before making a determination. Currently, we are recommending a phase out. Dan stated that a decision will be made by the EFOC and given to the State Council. He clarified that the Section 14(c) certificates are from the U.S. Department of Labor. The States have the power to disregard this through legislation. Ann spoke about the need for education for these employees and their families because they were afraid of losing benefits and may not be aware of the ABLE Act. Dan commented that DVR does assessments every two years. For young people transitioning into the workforce, there are many additional steps required (under Section 511 of the Workforce Opportunity Act) by DVR. Dan commented that he is requesting data on this to see how it is playing out. Lloyd made a motion that summary information regarding the ABLE Act be put on the SCPD/EFOC website. Motion was seconded by Bill and approved. Victoria recommended adding an existing link from a U.S. government website. John added that Dan could provide this resource. Nick noted that most of the information on the EFOC website are the result of links of organizations and news sources. He added that many of the federal websites are well written and friendly. He recommended having brief information on our website that links to other more useful information.

Michelle spoke about the impact of unintended consequences and referenced page 2 and 3 of the handout of the five organizations that have the Section 14(c) certificates. She stated that one of these organizations is on a statewide contract; if the business requires that they increase the pay of their employees, the pricing on the statewide contract would be static for the duration of the contract and the margin of those companies would be negatively impacted. At some point it may not be viable for the organization and takes away from the work that the company does and hurting the employees. It also changes how that company is able to competitively bid. Dan commented that we have talked to these organizations and that the funding is complex. He spoke about consequences and improving quality of life and said that this conversation will continue. Dan welcomed attendance at the EFOC meetings which are held on the second Tuesday of the month, 9:30 am – 11:30 am, Smyrna Rest Stop. Dee commented about some of the federal links that were on the EFOC website which are now broken. Nick commented that the website has not been reviewed in over a year and a webmaster needs to be dedicated to reviewing and updating it every two months. Kristen stated that DTI runs a monthly report called a spider that finds broken links and reports them to the Chief Information Officer in the office.

Lloyd spoke about the State Use Law, which requires that people be paid minimum wages. Michelle stated that some set aside require that 75 percent be identified as people with disabilities. Dan added that some set-aside contracts support competitive employment.

Dan stated the EFOC will meet in April and May before a draft final document is ready. He asked that if anyone had comments to send him an email in the next 60 days. Jamie thanked Dan for his presentation.

### **Proposed New Accessible Parking Legislation - Update**

John spoke about a meeting held with the Chambers of Commerce on February 28<sup>th</sup> about the legislation. John commented that the new legislation was similar to last year's. Brian commented that some of the "ornaments" were taken off and was not effective. The Chambers continued to oppose it. John spoke about differing opinions about how we should move forward, with strong advocates not willing to support the legislation if sign requirements in the access aisle was not included. Laura Waterland (Disabilities Law Program) drafted a bill, but did not include this. The proposed legislation

was tabled in Committee. He added that we wanted the County and local governments to have a permitting process for their parking lots and this would increase adherence to the ADA. Brian add that, with the opposition from County and local governments, and the Health Care Association, we felt our best hope was to get a diluted bill with core components, and then more could be done over time. John spoke about the permitting process being on the front-end and a liberal inspection process being on the back-end, but it is better than what currently takes place. John commented that it was important for the Council to have a combined voice. Ann suggested resending the bill to Council members. John will email the proposed legislation with the suggestion that we will discuss and make a decision as a Council at the next meeting. Bill commented that the most of the extras could be taken out and that we want the County government to enforce of ADA in regard to new construction and re-inspection of restriping. Brian stated that the DLP cannot work on a bill that has no chance of passing because it becomes a question of prioritization. John spoke about the archaic language in the County code, including a grandfather provision. Brian suggested that Plan B is to meet with the new County Executive or his representative and get them to update their standards and they may be willing to have a permitting process on their own. Jamie commented that legislators want to see new faces testify about accessible parking issues. Todd asked if it was brought to the County's attention that they are violating federal law with the grandfather clause. Brian added that it was not known until after the meeting when Laura researched the County Code.

Nick commented that he supported approaching New Castle County with an appeal of what is the right thing to do and include the support of people that experience the problems and to publicize those changes so that we can build more widespread implementation. Michelle added that it may be that the County Council changes the County Code. Jamie recommended taken a top-down approach. Nick made a motion that John and Laura schedule a meeting with New Castle County Administration to discuss the parking legislation. Lloyd seconded the motion and the motion was approved with no one opposing or abstaining. Next steps can be discussed at the next SCPD meeting. Jamie suggested that the County Administration be invited to one of our meetings depending on their receptivity. Brian commented that if we get New Castle County to come along, then we can work on the State and other County governments. Brian commented that this is a multi-year effort.

### **Custie Awards**

Nick presented his proposal on a formal process for selection of the Custie award (handout). He reviewed the issues, including the purpose, frequency, nominations, and the, elections. He proposed a Nomination Form (Appendix A). Nick commented that he considered this proposal to be a discussion document. This document will be circulated to the Full Council. Voting can be added to the agenda for the next meeting. Comments can be sent to Jamie, John and Nick. Kristen suggested defining major achievements. Jamie commented that it was important to give the award at the Annual SCPD Luncheon because Mary Straughn started this Council and the Luncheon is a celebration of her spirit. Many positive comments were stated about the document that Nick presented.

Nick emailed a revised document on March 21st based on suggestions given at the meeting, including:

- Frequency – The award will be given at the Annual SCPD Luncheon (rather than the LIFE Conference)
- Examples of achievements that might merit consideration for the Custie award were added.

## **OTHER BUSINESS**

### **Meeting with Federal Congressional Legislators Regarding Medicaid Issues**

Jamie spoke about going to DC and meeting with Delaware's congressional legislators (Representative Rochester and Senators Carper and Coons) to discuss Medicaid issues. Kristen stated that DDC members and staff are in Washington this week at a conference and also planning to go to the Capital. They have materials, including Fact Sheets. Jamie stated that we will keep on top of this and asked everyone to let us know if they hear of any forthcoming changes regarding Medicaid. Ann wanted to convey that she hopes that children are not forgotten and has many talking points that she can provide. John commented that we could meet with the legislators when they come home during a break in the spring. Jamie added that she has some upcoming medical issues in early April and may not be available so she wanted to plant the seed so that it can be moved forward.

### **Meeting Schedule in Outlook**

Susan commented that when the February meeting was cancelled in Microsoft Outlook, apparently all the future meetings were also included when the cancellation notice went out. Jo will look into this and make any needed changes.

## **ANNOUNCEMENTS**

Todd stated that DelDOT's has partnered with Project Search for 2017-18 school year. They will have 7-10 students from School Districts throughout Kent County complete an internship at DelDOT.

## **PUBLIC COMMENT**

None

## **ADJOURNMENT**

Bill made a motion to adjourn. This was seconded by Brian and approved. The meeting adjourned at 3:36 pm.

Respectfully submitted,

Jo Singles  
Administrative Specialist

SCPD/min/mar17